

CALIFORNIA ENERGY COMMISSION

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November 4, 2003

TO: INTERESTED PARTIES

SUBJECT: REQUEST FOR PROPOSALS (RFQ) #400-03-401
ADDENDUM #2

Questions and Answers from the October 21, 2003, Pre-bid Conference, is amended as follows to correct certain erroneous information that was included in the answer below.

Please disregard the "NOTE" that was added to the answer to the question above, since these this conflict of interest requirement does not apply to the contract resulting from this RFQ.

CONFLICT OF INTEREST CONCERNS

1. Is the sub or the prime excluded from doing the follow-up or prior work connected to a project?

Once a Commission-funded energy audit is completed, it is the decision of the public agency as to whether a Commission contractor would be eligible for subsequent work related to the recommendations in the energy audit. However, the Commission has strived to provide independent, credible and objective project analysis on all technical assistance work. We do not want to see contractors using this contract in a manner that would jeopardize our ability to provide independent analysis or would result in actual or perceived conflicts of interests.

Obvious examples of conflict of interest include bidding on work for which your firm was involved in the bid document preparation, or reviewing an energy audit that was completed by your firm but independent of our program. Since there are many more examples, it is the prime or subcontractor's responsibility to notify the Commission contract manager if there are or could be potential conflicts of interests on any work assignments. The Commission contract manager will evaluate each situation on a case-by-case-basis.

NOTE: "Clarification from Commission's Legal Office: A prime or sub who has worked on a project, is not allowed to bid on or be awarded follow on work as a result of the original project. This is a legal requirement and is not based on the decision of the public agency."

Notice is Hereby Given That The Above RFQ Is Amended As Follows

Attachments 5A and 5B are amended as follows:

4. CONFLICT OF INTEREST

- A. Contractor agrees to continuously review new and upcoming projects in which members of the Contractor team may be involved for potential conflicts of interest. Contractor shall report its findings in its progress report.
- B. Contractor shall submit a completed Fair Political Practices Commission Form 700, "Statement of Economic Interests" for each consultant as directed by the Commission's Contract Manager in consultation with the Commission's Chief Counsel's Office to file a statement.

~~C. No person, firm, or subsidiary thereof who has been awarded a consulting services contract may submit a bid for, nor be awarded a contract for, the provision of services, procurement of goods or supplies, or any other related action which is required, suggested, or otherwise deemed appropriate in the end product of the consulting services contract. This does not apply to any person, firm, or subsidiary thereof who is awarded a subcontract of a consulting services contract which amounts to no more than 10 percent of the total monetary value of the consulting services contract.~~

D.C. Bidding Activities:

- 1) Contractor and each subcontractor shall agree not to bid as an independent consultant on any of the following:
 - a) An RFP or project on which Contractor or any subcontractor has provided assistance under this Contract.
 - b) Every related RFP or subject that currently receives assistance or receives assistance during this Contract under _____ [fill in program] or intends to apply for such assistance under any of the above programs and makes that fact known to Contractor or Contractor team members.
- 2) Reviewing, Evaluation & Assistance Activities

Contractor and each team member shall be disqualified from participating in the review, evaluation, or assistance of:

- a) Any project seeking assistance under the programs listed above for which Contractor has become an independent consultant in a situation not covered by clause D.1; or,
- b) Any project for which, within twelve (12) months prior to the start date of this Contract or at any time during this Contract, it has provided assistance under a separate contract to the project proponent that is seeking assistance for the same project under any of the above programs.

- 3) Subcontractors

Contractor shall require each of its subcontractors at any level who will be involved in the performance of this Contract to agree to the above terms in a form to be

approved by the Commission Contract Manager, and shall furnish the Commission with evidence thereof. The terms of this paragraph shall remain in effect for the duration of this Contract.

Questions regarding this RFQ must be administrative only and directed to the Contract Officer. To ensure timely delivery, Statements of Qualifications must be **delivered no later than 5:00 PM, November 19, 2003, to the Energy Commission.**

Except as herein amended, all other terms and conditions shall remain the same.

Sincerely,

PEG A. PIGEON
Contract Officer

Attachments